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**Star Fire Protection, Inc. and Road Sprinkler Fitters
Local Union No. 669, U.A., AFL-CIO. Case 12-
CA-26646**

April 7, 2011

DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS BECKER
AND HAYES

The Acting General Counsel seeks a default judgment¹ in this case on the ground that the Respondent has failed to file an answer to the complaint and the amendment to the complaint. Upon a charge filed by the Union on February 23, 2010, the Acting General Counsel issued the complaint on October 25, 2010,² against Star Fire Protection, Inc., the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the Act.³ The Respondent failed to file an answer.

On February 4, 2011, the Acting General Counsel filed a Motion for Default Judgment with the Board. Thereafter, on February 4, 2011, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days

¹ The Acting General Counsel's motion requests default summary judgment on the ground that the Respondent has failed to file an answer to the complaint. Accordingly, we construe the motion as a Motion for Default Judgment.

² On December 9, 2010, the Regional Director issued an amendment to the complaint, which corrected the name of the Respondent to include "Inc."

³ The Acting General Counsel's motion for default judgment indicates that the complaint and the amendment to the complaint were served on the Respondent's President, Starlene Tittle, by certified mail and on the Respondent's counsel by first class regular mail. The Respondent refused to accept service of the complaint, which was returned to the Regional Office marked "unclaimed." It is well settled that a respondent's failure or refusal to accept certified mail or to provide for appropriate service cannot serve to defeat the purposes of the Act. See, e.g., *I.C.E. Electric, Inc.*, 339 NLRB 247, 247 fn. 2 (2003), and cases cited therein. Further, the failure of the Postal Service to return documents served by regular mail indicates actual receipt of those documents by the Respondent. *Id.*; *Lite Flight, Inc.*, 285 NLRB 649, 650 (1987), enf'd. 843 F.2d 1392 (6th Cir. 1988).

from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively stated that unless an answer was received by November 8, 2010, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the undisputed allegations in the Acting General Counsel's motion disclose that the Region, by letter dated November 17, 2010, notified the Respondent's counsel that unless an answer was received by November 24, 2010, a motion for default judgment would be filed.

In the absence of good cause being shown for the failure to file an answer, we deem the allegations in the complaint and amendment to the complaint to be admitted as true, and we grant the Acting General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a Florida corporation with its principal office and place of business in Jacksonville, Florida, has been engaged in the business of installing, maintaining, and repairing commercial and residential fire protection systems. During the 12-month period preceding the issuance of the complaint, the Respondent, in conducting its business operations described above, performed services valued in excess of \$50,000 in states other than the State of Florida. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that Road Sprinkler Fitters Local Union No. 669, U.A., AFL-CIO, the Union, is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, Starlene Tittle held the position of the Respondent's president, and has been a supervisor of the Respondent within the meaning of Section 2(11) of the Act, and an agent of the Respondent within the meaning of Section 2(13) of the Act.

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All journeymen sprinkler fitters, apprentices and/or indentured apprentice applicants who perform sprinkler fitter work outside the State of Florida.

Since about February 24, 2005, and at all material times, the Union has been the designated exclusive collective-bargaining representative of the unit and has been recognized as such representative by the Respondent.

This recognition has been embodied in successive collective-bargaining agreements, the most recent of which was effective from April 1, 2007 through March 31, 2010, and which automatically renewed on April 1, 2010.

At all times since about February 24, 2005, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit employees described above.

Since about September 23, 2009, the Union has requested, in writing, that the Respondent furnish the Union with the following information:

A listing of all jobs in Local Union 669 territory, including job name and specific job location, and indicate whether active, completed or under contract from January 1, 2009 to the present.

A listing of all individuals employed by Star Fire Protection on the jobs listed in question #1 above, including their full name, address, union affiliation, employee identification number, job classification, hours worked in Local Union 669 territory, rate of pay, amount of benefits paid broken out by fund where paid, and travel expenses or subsistence received (if any), from January 1, 2009 to the present.

The information requested by the Union is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit.

Since about September 23, 2009, and continuing thereafter, the Respondent has failed and refused to furnish the Union with the information requested.

CONCLUSION OF LAW

By the conduct described above, the Respondent has failed and refused to bargain collectively with the exclusive collective-bargaining representative of its employees and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(5) and (1) by failing and refusing to furnish the Union with requested information that is necessary for and relevant to the performance of its duties as the exclusive collective-bargaining representative of the unit employees, we

shall order the Respondent to furnish the Union with the information it requested since September 23, 2009.

ORDER

The National Labor Relations Board orders that the Respondent, Star Fire Protection, Inc., Jacksonville, Florida, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to bargain collectively and in good faith with Road Sprinkler Fitters Local Union No. 669, U.A., AFL-CIO, by failing and refusing to furnish the Union with requested information that is necessary for and relevant to the performance of its duties as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All journeymen sprinkler fitters, apprentices and/or indentured apprentice applicants who perform sprinkler fitter work outside the State of Florida.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish the Union with the information it requested since September 23, 2009.

(b) Within 14 days after service by the Region, post at its Jacksonville, Florida facility copies of the attached notice marked "Appendix."⁴ Copies of the notice, on forms provided by the Regional Director for Region 12, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means.⁵ Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the

⁴ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

⁵ Consistent with our recently issued decision in *J. Picini Flooring*, 356 No. 9 (2010), we have ordered the Respondent to distribute the notice electronically if it is customarily communicating with employees by such means. For the reasons stated in his dissenting opinion in *J. Picini Flooring*, Member Hayes would not require electronic distribution of the notice.

pendency of these proceedings, the Respondent has gone out of business or closed its facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since September 23, 2009.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. April 7, 2011

_____ Wilma B. Liebman,	Chairman
_____ Craig Becker,	Member
_____ Brian E. Hayes,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to bargain collectively and in good faith with Road Sprinkler Fitters Local Union No. 669, U.A., AFL-CIO, by failing and refusing to furnish it with requested information that is necessary for and relevant to the performance of its duties as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All journeymen sprinkler fitters, apprentices and/or indentured apprentice applicants who perform sprinkler fitter work outside the State of Florida.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL furnish the Union with the information it requested since September 23, 2009.

STAR FIRE PROTECTION, INC.